



PERSONNEL AND
READINESS

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MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (M&RA)
ASSISTANT SECRETARY OF THE NAVY (M&RA)
ASSISTANT SECRETARY OF THE AIR FORCE (MR)
DIRECTOR, JOINT STAFF
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING
SERVICE

SUBJECT: Death Benefit Enhancements of the Emergency Supplemental Appropriations Act, for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109-13)

This memorandum establishes procedures and responsibilities to implement the payment of enhanced death benefits as enacted by section 1013 of Public Law 109-13, (reference: Deputy Secretary of Defense memorandum, same subject, dated June 24, 2005). Implementing guidance for these benefits is set out at attachment 1.

All survivors entitled to death gratuities as authorized in attachment 1 shall receive the prescribed payments as quickly as possible. Enhanced benefits are provided both retroactively and prospectively and are payable only if specified criteria are met. Responsible agencies must act immediately to determine the benefits payable and make such payments expeditiously and accurately.

Revised amounts of interment expenses that may be reimbursed by the United States are also provided at attachment 2. These new amounts are approved for reimbursement of qualified interment and associated expenses under the authority of section 1482 of title 10, United States Code, and DoD Directive 1344.8. These amounts are effective for reimbursement of expenses incident to the death of a member whose date of death is on or after the date of this memorandum.


Charles S. Abell
Principal Deputy

Enclosures: As stated

cc: Commandant (G-HR), U.S. Coast Guard
Director, Division of Commissioned Personnel, U.S. Public Health Service
Director, National Oceanic and Atmospheric Administration Corps



DEATH GRATUITY PAYMENTS UNDER SECTION 1013 OF PUBLIC LAW 109-13

AUTHORITY: Section 1013 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109-13, May 11, 2005) revises the amount of death gratuity payable under section 1478 of title 10, United States Code. These revisions are effective only through September 30, 2005, and subsequent to that date death gratuities will be paid in accordance with the law in effect on May 10, 2005.

If new provisions of law are enacted and effective after September 30, 2005, amended guidance will be issued.

Any benefits that accrue under the provisions of section 1013, Public Law 109-13, on or before September 30, 2005, remain payable after that date, notwithstanding the expiration of such provisions.

TAXABILITY AND INTEREST: Death gratuity payments payable under chapter 75 of Title 10, United States Code, are excluded from the gross income of a recipient as "qualified military benefits," consistent with 26 U.S.C. § 134(b)(3)(C). No interest is payable solely due to the retroactive effect of section 1013, Public Law 109-13.

BENEFICIARY FINANCIAL COUNSELING SERVICE (BFCS): The Department of Veterans Affairs (VA) indicates it will extend the BFCS to any beneficiary receiving payments of \$10,000 or more under these special provisions of law.

PRIMARY RESPONSIBILITIES:

SERVICES: Each Service must establish procedures, consistent with this guidance, to ensure newly enacted enhanced death benefits are paid to survivors eligible to receive such benefits as described in the table below. Initial provisions should focus on deaths occurring from October 7, 2001, through August 31, 2005. Subsequent guidance will be issued for deaths occurring on or after September 1, 2005. Services will:

1. Monitor payment of benefits for every death on a proactive basis.
2. Track all benefit payments due to survivors, particularly for those deaths that qualify for a retroactive increase.
 - a. Identify every death on or after October 7, 2001
 - b. Classify each death according to the benefit table below
 - i. Classify by date
 1. October 7, 2001 through May 10, 2005
 2. May 11, 2005 through August 31, 2005
 - ii. Classify by Circumstance
 1. Occurred in a designated area or operation
 2. Not in a designated area or operation but qualifies under the criteria for Combat Related Special Compensation (CRSC)

3. Other Circumstances

- c. Identify and locate qualified beneficiaries according to two benefits
 - i. Death gratuity beneficiary(ies)
 - ii. SGLI beneficiary(ies) (Office of Servicemembers' Group Life insurance will provide initial information)
- d. Certify qualified beneficiaries to DFAS in the format and manner prescribed by DFAS.
- e. Follow up every case until all benefits have been paid to qualified beneficiaries

DFAS: DFAS shall:

1. Prescribe the format and manner for Services to certify qualified beneficiaries.
2. Provide for the payment of benefits to qualified beneficiaries according to the benefit table provided herein,
3. Provide to the DUSD(MPP) and the DUSD(P/B) a summary of payments made in the previous month showing the number of deaths, number of beneficiaries and dollars paid for each cell in the benefit table below. Data should be reported separately for death gratuity payments and SGLI gratuity payments.

Death Gratuities and SGLI Gratuities for Deaths by Date and Circumstance

Date of Death	Circumstance of Death		
	In a Designated Area or Operation	Not in a Designated Area or Operation but meets CRSC Criteria	Other Circumstances
Oct 7, 2001 – May 10, 2005	\$88K Retro DG + \$150K Retro SGLI Gratuity	\$88K Retro DG + \$150K Retro SGLI Gratuity	As Paid
May 11, 2005 – Aug 31, 2005	\$100K Total DG + \$150K Transitional SGLI Gratuity	\$100,000 Total DG + \$150K Transitional SGLI Gratuity	\$12,420 DG + SGLI as elected up to Max of \$250K
Sep 1, 2005 & Later	\$100K Total DG + \$150K Combat SGLI Increase in Elected SGLI up to a Max Total SGLI of \$400K	\$100K Total DG + SGLI as elected up to Max of \$400K	\$12,420 DG + SGLI as elected up to a Max of \$400K

Notes: The Retro DG refers to the retroactive payment of \$88,000 payable under section 1478 of title 10, United States Code, as amended by section 1013(b) of Public Law 109-13.

The Retro SGLI Gratuity refers to the retroactive payment of \$150,000 payable under section 1478 of title 10, United States Code, as amended by section 1013(b) of Public Law 109-13.

The Transitional SGLI Gratuity refers to \$150,000 payable under section 1478 of title 10, United States Code., as amended by section 1013(c) of Public Law 109-13.

On or after September 1, 2005, a new benefit, referred to above as \$150,000 Combat SGLI Increase, provides added SGLI coverage under section 1967 of title 38, United States Code, as amended by section 1012 of Public Law 109-13. Implementing instructions for these benefits and the associated premium adjustments will be issued separately.

GRATUITIES PAYABLE

Deaths On Or After May 11, 2005

Minimum Payments: A survivor qualified for payment of a death gratuity under chapter 75 of title 10, United States Code, is to be paid as quickly as possible once the criteria establishing entitlement to the gratuity are determined. The minimum death gratuity amount of \$12,420 (rate as of January 1, 2005) provided for under in section 1478 of title 10, United States Code, will not be delayed pending determinations relative to the higher death gratuity amount payable to those who die in a designated area or operation or whose circumstance of death meets CRSC criteria. If such increased amount is later determined payable, the survivor will then be paid the amount needed to bring the total death gratuity payment up to the prescribed amount (currently \$100,000).

Increased Gratuity Amount: Subsections 1013(a), (d), and (e) of P.L.109-13, provide that under specified circumstances, for deaths occurring on or after May 11, 2005, an additional death gratuity of \$87,580 shall be paid (for a total death gratuity of \$100,000), in the case of a death resulting from wounds, injuries or illnesses that are:

1. Incurred in a geographic location that qualifies a member for the Combat Zone Tax Exclusion (CZTE) or, if not incurred in such a location, then incurred while the member was deployed outside the United States on orders in support of either Operation Enduring Freedom or Operation Iraqi Freedom. (See attachment 1-1), or
2. Incurred under conditions described in section 1413a(e)(2) of title 10, United States Code, as determined by the Service under Attachment 1-2.

Increased Gratuity Payments for Deaths on or after May 11, 2005 but Before September 1, 2005: Subsections 1013(c) and (d) of P.L. 109-13 provide that under specified circumstances, for deaths which occurred on or after May 11, 2005, but before the September 1, 2005, at the international dateline (the moment that the new SGLI benefits will cover all members for \$400,000 of coverage) an additional death gratuity of \$150,000 shall be paid, in the case of a death resulting from one or more wounds, injuries, or illnesses that are:

1. Incurred in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom. For such purpose, a service member must have been deployed outside of the United States on orders in support of Operation Enduring Freedom or Operation Iraqi Freedom or serving in a geographic location that qualified the service member for the Combat Zone Tax Exclusion (CZTE). (See attachment 1-1); or

2. Incurred under conditions described in section 1413a(e)(2) of title 10, United States Code, as determined by the Service under Attachment 1-2.

Payment of the \$150,000 shall be made to a beneficiary in the same proportion to the share of benefits applicable to such beneficiary in the payment of life insurance proceeds payable on the basis of that death under the SGLI program under subchapter III of chapter 19 of title 38, United States Code; or in the case of a person who elected not to be so insured, in equal shares to the person or persons who would have received the proceeds under those provisions of law for a member who is insured under that subchapter but does not designate named beneficiaries.

Deaths Before May 11, 2005: Subsection 1013(b) of P.L. 109-13 provides that under specified circumstances, for deaths which occurred on or after October 7, 2001, but before May 11, 2005, an additional death gratuity of \$238,000 shall be paid, in the case of a death resulting from one or more wounds, injuries, or illnesses that are:

1. Incurred in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom. For such purpose, a service member must have been deployed outside of the United States on orders in support of Operation Enduring Freedom or Operation Iraqi Freedom or serving in a geographic location that qualified the service member for the Combat Zone Tax Exclusion (CZTE). (See attachment 1-1); or
2. Incurred under conditions described in section 1413a(e)(2) of title 10 U.S.C., as determined under Attachment 1-2.

The payment of the \$238,000 shall be disbursed as follows:

- A payment of \$88,000 shall be made in equal shares to the beneficiaries who were paid the death gratuity under section 1478 of title 10, United States Code, prior to the enactment of section 1013(b) of Public Law 109-13.
- Payment of the \$150,000 shall be made to a beneficiary in the same proportion to the share of benefits applicable to such beneficiary in the payment of life insurance proceeds payable on the basis of that death under the SGLI program under subchapter III of chapter 19 of title 38, United States Code; or in the case of a person who elected not to be so insured, in equal shares to the person or persons who would have received the proceeds under those provisions of law for a member who is insured under that subchapter but does not designate named beneficiaries.

Deaths on or after September 1, 2005: As of September 1, 2005, a new "\$150,000 Combat Addition to SGLI" will become effective under section 1967(e) of title 38, United States Code, as amended by section 1012 of Public Law 109-13. Implementing instructions for these benefits and the associated premium adjustments will be issued separately.

ADDITIONAL GUIDANCE PENDING:

The issues of appeals, trusts for minor beneficiaries, and payment of benefits in the cases where a qualified survivor is now deceased, or a child of the deceased member was born subsequent to the member's death should be addressed by DFAS as soon as possible.

Geographic Areas Qualifying for Combat Zone Tax Exclusion

Executive Order 12744 (effective 17 Jan 1991)

- Arabian Sea - portion that lies North of 10 degrees North Latitude and West of 68 degrees East Longitude
- Bahrain
- Gulf of Aden
- Gulf of Oman
- Iraq
- Kuwait
- Persian Gulf
- Qatar
- Oman
- Red Sea
- Saudi Arabia
- United Arab Emirates

Direct Support of EO 12744

- Turkey effective 1 Jan 2003
- Jordan effective 19 Mar 2003
- Syria effective 1 Jan 2004

Executive Order 13239 (effective 19 Sep 2001)

- Afghanistan

Direct Support of EO 13239

- Pakistan effective 19 Sep 2001
- Tajikistan effective 19 Sep 2001
- Jordan effective 19 Sep 2001
- Incirlik AFB Turkey effective 21 Sep 2001
- Kyrgyzstan effective 1 Oct 2001
- Uzbekistan effective 1 Oct 2001
- Phillipines (only troops w/orders that reference OEF) effective 9 Jan 2002
- Yemen effective 10 Apr 2002
- Djibouti effective 1 Jul 2002

Executive Order 13119 (effective 24 Mar 1999)

Public Law 106-21 Establishing Qualified Hazardous Duty Area (24 Mar 1999)

- The Federal Republic of Yugoslavia (Serbia/Montenegro)
- Albania
- The Adriatic Sea
- The Ionian Sea north of the 39th parallel

Public Law 104-117 Establishing Qualified Hazardous Duty Area (November 1995)

- Bosnia

- Herzegovina
- Croatia
- Macedonia

**ENHANCED DEATH BENEFITS
BASED ON
COMBAT-RELATED SPECIAL COMPENSATION (CRSC) CRITERIA**

Subsection 1413a(e)(2) of title 10, United States Code, establishes entitlement to Combat-Related Special Compensation (CRSC) under four criteria. These criteria are also used to establish entitlement to certain death gratuities under section 1013 of Public Law 109-13. The criteria of law are explained in detail below and are to be used by persons making determinations of entitlement to death benefits based on such criteria. Note that these explanations are essentially identical to those used in making CRSC eligibility decisions which are, in turn, taken from DoDD 1332.18, which is used to make decisions as to whether or not disability retirees have combat-related disabilities and qualify for tax-free disability retired pay. All decisions using these criteria should be made on a generally consistent basis.

Importantly, these criteria are used only when the death did not occur in an area or operation designated under the provisions of law that qualify a death for an increased death gratuity regardless of circumstances of death under these criteria.

An otherwise qualified death shall be determined to meet the criteria of subsection 1413a(e)(2) if it meets any one of the following four conditions:

1. DIRECT RESULT OF ARMED CONFLICT - The death was incurred in the line of duty as a direct result of armed conflict. The fact that the death occurred during a period of war or an area of armed conflict or while participating in combat operations is not sufficient to support a combat-related determination. There must be a definite causal relationship between the armed conflict and the resulting death. Armed conflict includes a war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerrilla action, riot, or any other action in which Service members are engaged with a hostile or belligerent nation, faction, force, or terrorists. Armed conflict may also include such situations as incidents involving a member while interned as a prisoner of war or while detained against his or her will in custody of a hostile or belligerent force or while escaping or attempting to escape from such confinement, prisoner of war, or detained status.

2. WHILE ENGAGED IN HAZARDOUS SERVICE - Such service includes, but is not limited to, aerial flight, parachute duty, demolition duty, experimental stress duty, and diving duty. A finding that a death is the result of such hazardous service requires that the death be the direct result of actions taken in the performance of such service. Travel to or from such service, or actions incidental to a normal duty status not considered hazardous are not included. For example, duty aboard a submarine does not, in itself, constitute hazardous service.

3. IN THE PERFORMANCE OF DUTY UNDER CONDITIONS SIMULATING WAR - In general this covers deaths resulting from simulated combat activity during military training, such as war games, practice alerts, tactical exercises, airborne operations, leadership reaction courses, grenade and live fire weapons practice, bayonet training, hand-to-hand combat training, repelling, and negotiation of combat confidence and obstacle courses. It does not include physical training activities such as calisthenics and jogging or formation running and supervised

sports activities. Merely sustaining an injury during military training without participation in combat simulation activity is not considered combat-related.

4. INSTRUMENTALITY OF WAR – Death during an actual period of war is not required. However, there must be a direct causal relationship between the instrumentality of war and the death. The death must be incurred incident to a hazard or risk of the service. An instrumentality of war is a vehicle, vessel, or device designed primarily for Military Service and intended for use in such Service at the time of the occurrence or injury that caused the death. It may also include such instrumentalities not designed primarily for Military Service if use of, or occurrence involving, such instrumentality subjects the individual to a hazard peculiar to Military Service. Such use or occurrence differs from the use or occurrence under similar circumstances in civilian pursuits. A determination that a death is the result of an instrumentality of war may be made if the death was incurred in any period of service as a result of such diverse causes as wounds caused by a military weapon, accidents involving a military combat vehicle, injury or sickness caused by fumes, gases, or explosion of military ordnance, vehicles, or material. For example, a death caused directly by the operation of a submarine would qualify, even if the submarine was not conducting training simulating combat. As an additional example, if a member is on a field exercise and is engaged in sporting activity and falls and strikes an armored vehicle, the death will not be considered to result from the instrumentality of war (armored vehicle) because the sporting activity caused the injury that led to the member's death. On the other hand, if the individual was engaged in the same sporting activity and the armored vehicle struck and killed the member, the death would most likely be considered the result of an instrumentality of war.

Revised Interment Allowances - June 2005	
Conditions	Maximum Reimbursable Amount
When the Service Arranges Preparation and Casket, and Remains are Consigned to a Funeral Home, and Burial is in a Civilian Cemetery \$4,850 Burial is in a Government Cemetery \$3,450 Remains are Consigned Directly for Burial in a Government Cemetery \$850	
When the Family Arranges Preparation and Casket, and Burial is in a Civilian Cemetery \$7,700 Burial is in a Government Cemetery \$6,200	